IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 27090 of 2003(Y)

PETITIONER:

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1. NARAYANA PILLAI, PALATHADATHIL
   MELETHIL, THENGAMON MURI, PALLICKAL VILLAGE,
   ADOOR TALUK.

2. SANTHOSH, BINDHU BHAVAN, THENGAMOM MURI,
   PALLICKAL VILLAGE.

3. RADHAKRISHNA KURUP, KALEELINTE
   THEKKETHIL THENGAMOM MURI, PALLICKAL VILLAGE.

BY ADV. SRI.R.SANTHOSH BABU

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
   SECRETARY, DEPARTMENT OF LAW AND JUSTICE
   GOVERNMENT OF KERALA, SECRETARIAT,
   THIRUVANANTHAPURAM

2. RAJASEKHARAN PILLAI, RAJADHANI,
   THENGAMON MURI, PALLICKAL VILLAGE, ADOOR TALUK.

3. PRAKASH S/O. RAGHAVAN ASSARI PARAMBIL
   THENGAMOM MURI, PALLICKAL VILLAGE, ADOOR TALUK

4. VIJAYAN PILLAI, MURALI BHAVANAM,
   THENGAMOM MURI, PALLICKAL VILLAGE, ADOOR TALUK

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF ORDER IN I.A.1801/2002 IN O.S. 402/2002 OF MUNSIFF'S COURT, ADOOR DTD.6.3.2003.

EXT.P2 TRUE COPY OF ORER IN I.A.708/2003 IN CMA 22/2003 DTD.30.7.2003 OF DISTRICT JUDGE, PATHANAMTHITTA.

EXT.P3 TRUE COPY OF COMMISSION REPORT IN O.S.402/2002 OF MUNSIFF'S COURT, ADOOR DTD.20.11.2002.

TRUE COPY

P.A.TO JUDGE

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PIUS C. KURIAKOSE,J.

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W.P.(C) No.27090 of 2003

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Dated: 20th June, 2007

JUDGMENT

As rightly submitted by Mr.P.B.Sahasranaman, learned counsel for the 2nd respondent the issue involved is between the petitioners and the 2nd respondent alone. I dispense with service of notice to R3 and R4.

2. Heard both sides. Ext.P2 order passed by the appellat court on an I.A. for an injunction to restrain the user of jack hammer for blasting rocks is under challenge. Even though stay of operation of Ext.P2 was applied for, the same was not granted. In all probability the Writ Petition has become infructuous. Moreover, I do not find any reason to interfere with Ext.P2 in the visitorial jurisdiction of this court under Article 227 of the Constitution since it cannot be said that the view taken in Ext.P2 is so wholly unreasonable as to warrant correction. In all probability the suit itself is disposed of. However, the Writ Petition will stand disposed of directing the learned Munsiff, Adoor to dispose of the suit O.S.No.402/02 (if not already disposed of) at the earliest and at any rate within two months of receiving copy of the judgment. The learned Munsiff will not be influenced by any of

the observations of the District Judge in Ext.P2 while taking decision in the suit.

srd **PIUS C.KURIAKOSE, JUDGE**